

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 12th day of November at 8:00 P.M., and there were

PRESENT: MARK AQUINO, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 JEFFREY SIMME, CODE ENFORCEMENT OFFICER
 NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF BRIAN DERMONT

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the adjourned hearing of Brian A. Dermont, 685 Ransom Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1,280 square foot garage on premises owned by the petitioner at 685 Ransom Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,280 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 530 square foot accessory use area variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Brian Dermont, petitioner	Proponent
Ronald Jozwiak	Comments & Concerns

IN THE MATTER OF THE PETITION OF BRIAN DERMONT

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Brian Dermont and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of November 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has not commented.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought, noting there are similar structures in this neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought, noting that the Code Enforcement Officer and the Town's engineering consultant have established a drainage plan.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however should not preclude the granting of the variance.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.
- That the structure's siding and roof shingles are consistent with that of the primary residence.
- That the petitioner adheres to the drainage plan as described in the letter on file from the Supervising Code Enforcement Officer of the Town of Lancaster dated November 5, 2009.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 12, 2009

PETITION OF NICHOLAS & CHERYL ROSSI:

THE 2ND CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Nicholas and Cheryl Rossi, 721 Aurora Street, Lancaster, New York 14086 for one [1] variance for the purpose of permitting an existing six [6] foot high fence to remain as positioned in a required open space area on premises owned by the petitioners at 721 Aurora Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Running Brook Drive with an exterior side yard [considered a front yard equivalent] fronting on Aurora Street. The petitioners have erected a six [6] foot high fence within the required open space area of the exterior side yard fronting on Aurora Street.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Nicholas Rossi, petitioner	Proponent
Cheryl Rossi, petitioner	Proponent

IN THE MATTER OF THE PETITION OF NICHOLAS & CHERYL ROSSI

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Nicholas and Cheryl Rossi and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 12th day of November 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has not commented.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought, noting the petitioner is limited by the concrete pad in the back yard and needs a six foot fence to contain his large dog.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That shrubs shall be planted on the exterior side of the fence in such a manner that they will buffer the visual impact of the fence from the neighbor to the north and the passers by on the east.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 12, 2009

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:56 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
November 12, 2009